

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

CENTURY 21 REAL ESTATE, LLC,

Plaintiff,

CASE NO: 08-14609

v.

DISTRICT JUDGE THOMAS L. LUDINGTON
MAGISTRATE JUDGE CHARLES E. BINDER

GERALD L. EVERITT,
DIANA G. EVERITT, and
EVERITT REALTY, LLC,

Defendants.

ORDER TO OBTAIN COUNSEL

This order is entered under the authority given to this Magistrate Judge in an Order of Reference issued by Judge Ludington pursuant to 28 U.S.C. § 636(b)(1)(A).

The parties in this action appeared for the initial scheduling conference on January 16, 2009. Plaintiff was represented by counsel, and Defendants Gerald Everitt and Diana Everitt appeared *pro se*. The individual Defendants advised the Court and Plaintiff's counsel that they have not secured the services of an attorney to represent Defendant Everitt Realty, LLC.

It has been the law for the better part of two centuries that a corporation may appear in the federal courts only through licensed counsel. *Rowland v. Cal. Men's Colony, Unit II Men's Advisory Council*, 506 U.S. 194, 201-02, 113 S. Ct. 716, 121 L. Ed. 2d 656 (1993) (citing *Osborn v. President of Bank of United States*, 22 U.S. (9 Wheat.) 738, 829, 6 L. Ed. 204 (1824)). Although other parties may appear *pro se* under 28 U.S.C. § 1654, corporations may not; a corporation is a legal entity with an independent legal existence unto its own, separate from the interest of its president and founder. *Strong Delivery Ministry Ass'n v. Bd. of Appeals of Cook County*, 543 F.2d 32, 34 (7th Cir. 1976) (per curiam). Defendant's attempted answer, signed by a non-attorney, therefore cannot stand.

Operating Engineers Local 139 Health Benefit Fund v. Rawson Plumbing, Inc., 130 F. Supp. 2d 1022, 1023 (E.D. Wis. 2001). The rule requiring representation by a licensed attorney applies to all artificial entities, including limited liability companies (LLCs). See *Roscoe v. U.S.*, 134 Fed. App'x 226, 227 (10th Cir. 2005); *Martin v. Directors Guild of America*, 2006 WL 1351650 (D.

Colo. May 16, 2006); *In re ICLNDS Notes Acquisition, LLC*, 259 B.R. 289, *294 (Bankr. N.D. Ohio 2001) ("whether an LLC is viewed as a corporation or a partnership or a hybrid, it may only appear in court through an attorney").

Therefore, **IT IS ORDERED** that Defendant Everitt Realty, LLC, shall secure the services of a licensed attorney to represent it in this litigation and provide proof of said representation to the Court on or before **March 10, 2009**.

Review of this order is governed by 28 U.S.C. § 636(b)(1), FED. R. CIV. P. 72, and E.D. Mich. LR 72.1(d).

s/ Charles E. Binder

CHARLES E. BINDER

United States Magistrate Judge

Dated: January 23, 2009

CERTIFICATION

I hereby certify that this Order was electronically filed this date, electronically served on Jason Klingensmith, and served on Gerald Everitt, Diana Everitt and Everitt Realty by first class mail at 6088 Camp Rd., Oscoda, MI, 48750-9280.

Date: January 23, 2009

By s/Jean L. Broucek
Case Manager to Magistrate Judge Binder